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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,903	09/18/2003	Steven P. Trainoff	WTC0303	7011
24378 7590 07/27/2007 WYATT TECHNOLOGY COPORATION PO BOX 3003 SANTA BARBARA, CA 93130			EXAMINER OCHOA, JUAN CARLOS	
			ART UNIT 2123	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/665,903	Applicant(s) TRAINOFF, STEVEN P.	
	Examiner Juan C. Ochoa	Art Unit 2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/27/07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The amendment filed 4/27/07 has been received and considered. Claims 1–10 and 18 have been cancelled. Claims 11-17 and 19–30 are pending. Claims 11-17 Claims 11-17 are withdrawn from consideration. Claims 19–30 are presented for examination.

### ***Specification***

2. The disclosure is objected to because page 7, line 17 contains application cross–references in need of updated information. Applicant is required to update such information.

### ***Claim Objections***

3. Claims 19, 22–25, and 30 are objected to because of the following informalities:

4. Claim 19 uses the acronyms or variables “ $D_n(t)$ ” and “B”, the first use of acronyms or variables in a claim should be defined to avoid any possible indefiniteness issues.

5. Claims 22–25 refer to “said band broadening”, would be better as “said interdetector band broadening” to avoid any possible antecedent issues.

6. Claim 30 uses the acronyms or variables “ $\alpha_1$ ” and “ $\alpha_2$ ”, the first use of acronyms or variables in a claim should be defined to avoid any possible indefiniteness issues.

7. Claim 30 line 3 includes the term “and”, meaning is unclear. Examiner interprets as “when” for examination purposes.

8. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 19–30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 19 recites the limitation "said model" in sub-step (2) of step E. There is confusion and/or insufficient antecedent basis for this limitation in the claim. Two models precede such limitation: a broadening model and a  $\chi^2$  model.

12. Claim 29 recites the limitation "said chromatographic separation device" in line 2. There is insufficient antecedent basis for this "device" limitation in the claim. There is no "device" in either claim 19 or 29.

13. Claims 19–30 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

14. In claim 19, the omitted steps are: producing, converting, and/or mapping a broadening model into/to/and a  $\chi^2$  model.

15. Dependent claims inherit the defect of the claim from which they depend.

***Allowable Subject Matter***

16. Claim 19 is objected to for informalities but would be allowable if rewritten correcting the deficiencies.

Art Unit: 2123

17. The following is a statement of reasons for the indication of allowable subject matter:

18. While Shortt, U.S. Patent 5,528,366, discloses a method to determine the best fit parameters (see col. 9, lines 54–56) in a chromatographic separation containing a separation device (see col. 2, lines 15–20),

Janik et al., U.S. Patent 5,676,830, discloses determining the best-fit parameters of a broadening model to be used to correct for the effects of band broadening (see col. 3, lines 55–59),

and Trainoff et al., U.S. Patent 6,651,009, discloses that by integrating across the peaks, the dependence on the peak shape is eliminated, and the band broadening correction reduces to a single parameter (see col. 4, lines 19–22),

19. None of these references taken either alone or in combination disclose a method to determine the best fit parameters of a broadening model specifically including: the  $\chi^2_I(\beta_i, \tau_i, \alpha_{ij})$  expression in claim 19 in combination with the remaining elements and features of the claimed invention. Also, there is no motivation to combine none of these references to meet these limitations. It is for these reasons that applicant's invention defines over the prior art of record.

20. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

***Response to Arguments***

21. Applicant's arguments filed 4/27/07 have been fully considered, and they are persuasive.

22. Regarding the IDS objections, the amendment corrected all deficiencies and the objections are withdrawn.

23. Regarding the specification objections, one deficiency remains, all previous objections withdrawn.

24. Regarding the drawing objections, the amendment corrected all deficiencies and the objections are withdrawn.

25. Regarding the claim objections, claims are cancelled.

26. Regarding the rejections under 112, the amendment corrected all deficiencies and the rejections are withdrawn.

27. Regarding the rejections under 103, Applicant's arguments have been considered and the rejections are withdrawn.

### ***Conclusion***

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

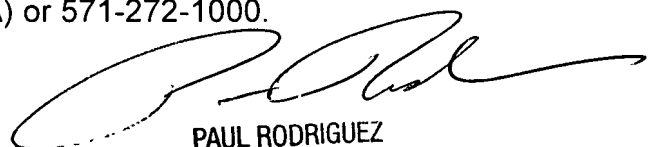
31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan C. Ochoa whose telephone number is (571) 272-2625. The examiner can normally be reached on 7:30AM - 4:00 PM.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on (571) 272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

33. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JO 7/23/09



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